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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/155,590	09/30/1998	JEFFREY SCHLOM	701433	8846

45733 7590 02/08/2008  
LEYDIG, VOIT & MAYER, LTD.  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO, IL 60601-6731

EXAMINER
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CANELLA, KAREN A

ART UNIT	PAPER NUMBER
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1643

MAIL DATE	DELIVERY MODE
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02/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/155,590

Applicant(s)

SCHLOM ET AL.

Examiner

Karen A. Canella

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 11-15, 25, 27, 32-34, 66-68 and 70-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 25, 27, 32-34, 66-68 and 70-72 is/are allowed.
- 6) ☐ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 31, 2007 has been entered.

Claims 12-14 have been amended. Claims 11-15, 25, 27, 32-34, 66-68, 70-72 are pending and under consideration.

Claims 11-15 are objected to for failing to comply with the Sequence Rules. The claims set forth the amino acid sequence of Xaa<sub>1</sub>LeuXaa<sub>2</sub>ValValGlyAlaXaa<sub>3</sub>GlyValGlyLysSer as SEQ ID NO:14, however the last Sequence Listing and CRF submitted on July 24, 2000 indicated that SEQ ID NO:14 is

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<210> SEQ ID NO 14
<211> LENGTH: 10
<212> TYPE: PRT
<213> ORGANISM: Artificial Sequence
<220> FEATURE:
<223> OTHER INFORMATION: Description Artificial Sequence:synthetic peptide
<223> OTHER INFORMATION: Xaa at position 1 is Lys or Tyr; Xaa at position 3
is any amino acid; Xaa at position 8 is Asp, Val,
Cys, Ala, Arg, or Ser; If Xaa at position 3 is
Val, then Xaa at position 1 is Tyr
<400> SEQUENCE: 14
Xaa Leu Xaa Val Val Gly Ala Xaa Gly Val
  1             5             10
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Appropriate correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 11-14 are drawn to a genus of mutant ras peptides comprising fragments of the amino acid sequence indicated as Xaa<sub>1</sub>LeuXaa<sub>2</sub>ValValGlyAlaXaa<sub>3</sub>GlyValGlyLysSer wherein the fragments retain the Xaa<sub>1</sub> residue, and wherein Xaa<sub>2</sub> is Val, then Xaa<sub>1</sub> is Tyr, as well as a genus of mutant ras peptides which consists of fragments of the amino acid sequence indicated as Xaa<sub>1</sub>LeuXaa<sub>2</sub>ValValGlyAlaXaa<sub>3</sub>GlyValGlyLysSer wherein the fragments retain the Xaa<sub>1</sub> residue, and wherein Xaa<sub>2</sub> is Val, then Xaa<sub>1</sub> is Tyr. Claim 15 is drawn to a peptide consisting of between 8 and 13 amino acids, wherein said peptide is SEQ ID NO:14 or a fragment of SEQ ID NO:14, wherein Xaa<sub>1</sub> is Tyr and Xaa<sub>3</sub> is Asp.

The originally filed disclosure describes TyrLeuValValValGlyAlaAspGlyVal (SEQ ID NO:11, page 11, lines 8-9) which meet the criteria of the instant claims. The specification further describes the peptides of SEQ ID NO:1-6 (page 10), SEQ ID NO:12 (page 19), and SEQ ID NO: 13 and 10 (page 20). In all of these peptides Xaa<sub>2</sub> is Val; but Xaa<sub>1</sub> is Lys rather than Tyr. Thus, the specification fails to adequately describe a genus of truncated peptides of Xaa<sub>1</sub>LeuXaa<sub>2</sub>ValValGlyAlaXaa<sub>3</sub>GlyValGlyLysSer wherein the fragments retain the Xaa<sub>1</sub> residue, and wherein when Xaa<sub>2</sub> is Val, then Xaa<sub>1</sub> is Tyr or a genus of peptides from 8 to 13 amino acids wherein the peptide is SEQ ID NO:14 or a fragment of SEQ ID NO:14, wherein Xaa<sub>1</sub> is Tyr and Xaa<sub>3</sub> is Asp..

One of skill in the art would reasonable conclude that applicant was not in possession of the claimed invention at the time of filing..

All other rejections and objections as set forth or maintained in the previous Office action are withdrawn in light of applicants amendment requiring the retention of Xaa1 in the fragment,,

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but not, as applicant alleged in the response of August 31, 2007, because the claims were misinterpreted to be drawn to SEQ ID NO:15, which was a typographical error.

Claims 25, 27, 32-34, 66-68, 70-72 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828. The examiner can normally be reached on 10-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571)272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karen A. Canella/  
Ph.D., Primary Examiner  
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